

§ 280.11

(c) Mineral sampling of a limited nature such as that using either test drillholes or cores to less than 300 feet below the seafloor;

(d) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species or if permitted by the National Marine Fisheries Service or another Federal Agency;

(e) Meteorological observations and measurements, including the setting of instruments;

(f) Hydrographic and oceanographic observations and measurements, including the setting of instruments;

(g) Sampling by box core or grab sampler to determine seabed geological or geotechnical properties;

(h) Television and still photographic observation and measurements;

(i) Shipboard mineral assaying and analysis; and

(j) Placement of positioning systems, including bottom transponders and surface and subsurface buoys reported in Notices to Mariners.

§ 280.11 Notification.

(a) The Governor(s) of adjacent State(s) shall be notified by the Director with a copy of the application for a permit with the accompanying plan immediately upon the submission of an application for approval.

(b) In cases where an environmental assessment is to be prepared, the Director will invite the Governor(s) of adjacent States(s) to review and provide comments regarding the proposed activities. The Director's invitation to provide comments shall allow the Governor a specified period of time to comment.

(c) The Director shall notify Federal Agencies, as appropriate, with a copy of the application for a permit with the accompanying plan immediately upon the submission of the application for approval.

§ 280.12 Disclosure of information to the public.

(a) The Director shall make data, information, and samples available in accordance with the requirements and subject to the limitations of the Act, the Freedom of Information Act (5

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U.S.C. 552), and the implementing regulations.

(b) For geological data, information, and samples and geophysical information submitted under a permit and retained by MMS, the Director shall make such data, information, and samples available to the public 25 years after the date of submission of the data and information or such earlier time as may be agreed to by the permittee who provides the data or information. Geophysical data submitted under a permit and retained by MMS shall be made available to the public by the Director 50 years after the date of submission to MMS unless an earlier date is agreed to by the permittee who submits the data.

(c) The Director reserves the right to disclose any data, information, or samples submitted by a permittee to an independent contractor or agent for the purpose of reproducing, processing, reprocessing, or interpreting the data or information. Such contractor or agent shall be subject to the same limitations on disclosure of data, information, and samples as those applicable to the Director under paragraph (b) of this section.

§ 280.13 Disclosure of data and information to the adjacent States.

(a) Proprietary data, information, and samples submitted to MMS by permittees shall be made available to adjacent State(s) upon request by the Governor(s) in accordance with paragraphs (b), (c), and (d) of this section.

(b) Disclosure shall occur only after the Governor has entered into an agreement with the Secretary providing that—

(1) The confidentiality of the information shall be maintained;

(2) In any action commenced against the Federal Government or the State for the failure to protect the confidentiality of proprietary information, the Federal Government or the State, as the case may be, may not raise as a defense any claim of sovereign immunity or any claim that the employee who revealed the proprietary information, which is the basis of the suit, was acting outside the scope of the person's employment in revealing the information;

(3) The State agrees to hold the United States harmless for any violation by the State or its employees or contractors of the agreement to protect the confidentiality of proprietary data and information and samples; and

(4) The materials containing the proprietary data, information, and samples shall remain the property of the United States.

(c) The data, information, and samples available to the State(s) pursuant to an agreement shall be related to leased lands.

(d) The materials containing the proprietary data, information, and samples shall be returned to MMS when they are no longer needed by the State or when requested by the Director.

§ 280.14 Suspension or temporary prohibition of activities.

The Director may suspend or temporarily prohibit the conduct of G&G prospecting or scientific research activities by notifying the person conducting the activity, either orally or in writing, when the Director determines that there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral (in areas leased or not leased), the national security or defense, or the marine, coastal, or human environment; or there is a failure to comply with a provision of the Act or of any applicable law, the provisions of the permit, or provisions of these and other applicable regulations. Such suspension or temporary prohibition shall be effective immediately upon receipt of the notice. Suspensions or temporary prohibitions issued orally shall be followed by a written notice confirming the action, and all written notices will be sent by certified or registered mail. A suspension or temporary prohibition shall remain in effect until the basis for the suspension or temporary prohibition has been corrected to the satisfaction of the Director.

§ 280.15 Cancellation or relinquishment.

The Director may cancel or a permittee may relinquish, in whole or in part, a permit to conduct prospecting or scientific research activities at any

time by sending a notice of cancellation or a notice of relinquishment. Such notices shall state the reason for the cancellation or relinquishment and shall be sent by certified or registered mail to the other party at least 30 days in advance of the date that the cancellation or relinquishment will be effective.

§ 280.16 Remedies and penalties.

Persons conducting activities in the OCS pursuant to this part shall be subject to the remedies and penalties provisions of section 24 of the Act and the applicable civil penalty procedures contained in part 250 of this title for noncompliance with any provision of the Act, permit, regulation, or order issued under the Act. The remedies or penalties prescribed in this section shall be in addition to any other penalty afforded by any other law or regulation.

§ 280.17 Appeals.

Orders or decisions issued under the regulations in this part may be appealed as provided in part 290 of this title.

PART 281—LEASING OF MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

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